

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

CIVIL ACTION NO:

U.S. BANK NATIONAL ASSOCIATION AS
LEGAL TITLE TRUSTEE FOR TRUMAN 2016
SC6 TITLE TRUST

PLAINTIFF

v.

KATHLEEN M. KEEFER, EDWARD KEEFER
AND STEPHEN R. CHAPMAN

DEFENDANTS

COMPLAINT FOR FORECLOSURE

**PROPERTY ADDRESS: 147 PARMENTER HILL ROAD SOUTH CHINA, ME 04358
MORTGAGE RECORDED IN BOOK 9202, PAGE 204 AT THE KENNEBEC COUNTY
REGISTRY OF DEEDS**

NOW COMES the Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, by and through its attorneys, Bendett & McHugh, P.C., and complains against Defendants pursuant to 14 M.R.S. § 6321 *et seq.*, saying further as follows:

JURISDICTION AND VENUE

1. This Court has diversity jurisdiction pursuant 28 U.S.C. § 1332 because Plaintiff and Defendants are citizens of different states and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. Any Court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations

of any interested party seeking such declaration, whether or not further relief is or could be sought under 28 U.S.C. § 2201.

2. Venue is properly exercised pursuant to 28 U.S.C. §1331(b)(2) insofar as all or a substantial portion of the events that give rise to the Plaintiff's claims transpired in Maine and the property is located in Maine.

PARTIES

3. U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, ("Plaintiff") is a corporate trustee, incorporated in the State of Texas, having a principal place of business at 3000 Kellway Drive, Suite 150, Carrollton, Texas 75006.
4. Defendants, Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman, are residents of South China, County of Kennebec and State of Maine.

FACTS

5. Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman are the owners of certain real property located at 147 Parmenter Hill Road, South China, Maine (the "Premises") by virtue of a deed from Frederick H. Chapman to Defendants Kathleen M. Keefer and Stephen R. Chapman, dated September 22, 2003, and recorded in the Kennebec County Registry of Deeds on November 21, 2003 in Book 7741 at Page 82, *see* Exhibit A1, and by virtue of a deed from Frederick H. Chapman and Defendants Kathleen M. Keefer and Stephen R. Chapman to Frederick H. Chapman and Defendants Kathleen M. Keefer and Stephen R. Chapman as tenants in common, dated January 26, 2006, and recorded in Kennebec County Registry of Deeds on February 14, 2006 in Book 8798 at Page 150. *See* Exhibit A2. The Defendant Kathleen M. Keefer subsequently transferred her interest in the Premises to herself and the Defendant

Edward Keefer, by virtue of a deed dated December 20, 2006, and recorded in the Kennebec County Registry of Deeds on January 2, 2007 in Book 9202 at Page 202. *See* Exhibit A3. Said Premises being more particularly described by the attached legal description. *See* Exhibit A4.

6. On December 20, 2006, Defendants, Kathleen M. Keefer and Edward Keefer, executed and delivered to Mortgage Lenders Network USA, Inc. a certain promissory note in the original principal amount of \$111,000.00 (the “Note”). *See* Exhibit B.
7. Plaintiff is entitled to enforce the Note as the Note was endorsed to CitiMortgage, Inc., then endorsed in blank, then endorsed to BOF 11 2011-2NPL, LLC, then endorsed to Christiana Trust, a division of Wilmington Savings Fund Society, FSB, not in its individual capacity but as Trustee of ARLP Trust 2, then endorsed in blank.
8. Plaintiff certifies that the owner of the Note is the Plaintiff.
9. To secure said Note, in the amount of \$111,000.00, Defendants, Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman, executed and delivered a Mortgage in favor of Mortgage Electronic Registration Systems, Inc., as nominee for Mortgage Lenders Network USA, Inc., dated December 20, 2006 and recorded in the Kennebec County Registry of Deeds in Book 9202 at Page 204 securing the property located at 147 Parmenter Hill Road, South China, ME, 04358 (the “Mortgage”). *See* Exhibit C
10. Said loan was modified by a Loan Modification Agreement effective June 1, 2009, which increased the unpaid principal balance to \$110,415.14 and was recorded in the Kennebec County Registry of Deeds in Book 10493 at Page 168. *See* Exhibit D1.

11. Said loan was further modified by a Loan Modification Agreement effective April 19, 2014, which further increased the unpaid principal balance to \$132,397.47, with a deferred principal balance of \$22,397.47. *See Exhibit D2.*
12. Said Mortgage was assigned from Mortgage Electronic Registration Systems, Inc. as nominee for Mortgage Lenders Network USA to Bayview Loan Servicing, LLC by an Assignment of Mortgage, dated May 19, 2011 and recorded on June 16, 2011 in Book 10755 at Page 173 of the Kennebec County Registry of Deeds. *See Exhibit E1.*
13. Said Mortgage was thereafter assigned from Bayview Loan Servicing, LLC to BOF II 2011-2NPL, LLC by an Assignment of Mortgage, dated February 19, 2014 and recorded on August 15, 2014 in Book 11770 at Page 348 of the Kennebec County Registry of Deeds. *See Exhibit E2.*
14. Said Mortgage was thereafter assigned from BOF II 2011-2NPL, LLC to Christiana Trust, a division of Wilmington Savings Fund Society, FSB, not in its individual capacity but as Trustee of ARLP Trust 2 by an Assignment of Mortgage, dated March 3, 2014 and recorded on September 2, 2014 in Book 11783 at Page 206 of the Kennebec County Registry of Deeds. *See Exhibit E3.*
15. Said Mortgage was assigned from Christiana Trust, a division of Wilmington Savings Fund Society, FSB, not in its individual capacity but as Trustee of ARLP Trust 2 to Wilmington Trust, National Association, not in its individual capacity but as Trustee of ARLP Securitization Trust, Series 2015-1 by an Assignment of Mortgage, dated May 20, 2016 and recorded on September 20, 2016 in Book 12414 at Page 76 of the Kennebec County Registry of Deeds. *See Exhibit E4.*

16. Said Mortgage was subsequently assigned from Wilmington Trust, National Association, not in its individual capacity but as Trustee of ARLP Securitization Trust, Series 2015-1 to Plaintiff by an Assignment of Mortgage, dated June 29, 2017 and recorded on July 19, 2017 in Book 12662 at Page 14 of the Kennebec County Registry of Deeds. *See Exhibit E5.*
17. In an Order dated July 3, 2018 (“Order”), the Maine State District Court held that Plaintiff holds full ownership interest in the Mortgage and that Plaintiff its successor and/or assigns are the mortgagee for the Mortgage for all purposes, including and without limitation, 14 M.R.S. § 6321 and § 6111 (as amended.) Said Order was recorded in the Kennebec Country Registry of Deeds on September 4, 2018 in Book 13015 at Page 81. *See Exhibit E6.*
18. Plaintiff, directly or through its agent, is in possession of the original Note, Mortgage and any assignments.
19. Plaintiff is the party entitled to collect the debt evidenced by said Note and is the party entitled to enforce the Mortgage, and has the right to foreclose the Mortgage.
20. Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman are presently in default of the Note, having failed to make the monthly payment due September 1, 2014, and having failed to make all payments due thereafter. As a result thereof, Defendants have breached a condition of the Mortgage.
21. In compliance with the Note and Mortgage and/or 14 M.R.S.A. § 6111, on or about February 5, 2019, Plaintiff sent a Notice of Default to the mortgagor and any co-signor against whom the mortgagee is enforcing the obligation secured by the mortgage, by

certified mail, return receipt requested and/or by regular mail, postage prepaid (herein after referred to as the “Demand Letter”). *See Exhibit F.*

22. Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman have failed to cure the default prior to the expiration of the Demand Letter. In accordance with the Note and the Mortgage, Plaintiff has declared the entire principal amount outstanding, accrued interest thereon, and all other sums due under the Note and Mortgage to be presently due and payable.
23. The total unpaid principal balance owed under the Note and Mortgage as of February 27, 2016, is \$131,744.59 plus interest, late charges, expenses and reasonable attorney’s fees and costs.
24. Plaintiff anticipates that additional disbursements will be made for attorney’s fees and other services rendered during the foreclosure and sale.
25. Upon information and belief, Defendants, Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman, are presently in possession of the subject property originally secured by the Mortgage.

COUNT I – FORECLOSURE

26. The Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, repeats and realleges paragraphs 1 through 25 as if fully set forth herein.
27. This is an action for foreclosure and title to real estate located at 147 Parmenter Hill Road, South China, County of Kennebec, and State of Maine. *See Exhibit A4.*
28. The Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, is the holder of the Note pursuant to endorsement by the previous

holder and physical possession of the Note. As such, Plaintiff has the right to foreclosure upon the subject property.

29. Note Owner is the current owner and investor of the Mortgage and Note.
30. Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman are presently in default on said Mortgage and Note, having failed to make the monthly payment due. As a result, Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman have breached the condition of the Mortgage and Note.
31. The total unpaid principal balance owed under the Note and Mortgage as of February 27, 2016, is \$131,744.59 plus interest, late charges, expenses and reasonable attorney's fees and costs.
32. The record established through the Kennebec County Registry of Deeds indicates that there are no public utility easements recorded subsequent to the Mortgage and prior to the commencement of these proceedings affecting the mortgaged premises at issue herein.
33. By virtue of Defendants' breach of condition, the Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, hereby demands a foreclosure on said real estate.
34. Notice in conformity with 14 M.R.S.A. §6111 was sent to Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman, on February 5, 2019 as evidenced by the Certificate of Mailing. *See* Exhibit G.
35. Defendants, Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman, is/are not in the Military as evidenced by the attached Exhibit H.

COUNT II – UNJUST ENRICHMENT

36. The Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust repeats and re-alleges paragraphs 1 through 35 as if fully set forth herein.

37. Mortgage Electronic Registration Systems, Inc., as nominee for Mortgage Lenders Network USA, Inc., predecessor-in-interest to U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, loaned Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman \$111,000.00. *See Exhibit B.*

38. Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman have failed to repay the loan obligation pursuant to the terms of the Note and Mortgage.

39. As a result, Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman have been unjustly enriched to the detriment of the Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, as successor-in-interest to Mortgage Electronic Registration Systems, Inc., as nominee for Mortgage Lenders Network USA, Inc. by having received the benefits described above without repayment pursuant to the terms of the Note and Mortgage.

40. As such, Plaintiff U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust is entitled to relief.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiff U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust prays this Honorable Court:

Find that Defendants entered into a contract for a sum certain in exchange for a security interest in the subject property.

- a. Determine that there has been a breach of condition of the Mortgage;

- b. Find that Plaintiff, U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, is entitled to enforce the terms and conditions of the Note and Mortgage;
- c. Determine the amounts due under the Note and secured by the Mortgage, including principal, interest, reasonable attorney's fees, court costs and other expenses;
- d. Find that Defendants Kathleen M. Keefer and Edward Keefer are liable for any deficiency balance remaining due to Plaintiff after the sale of the mortgaged real estate and application of the proceeds of sale (this prayer is void for any Defendant that did not execute the Note or Guaranty and for any Defendant who has been granted discharge in bankruptcy);
- e. Issue a Judgment of Foreclosure and Sale in conformity with Title 14, M.R.S. § 6322;
- f. Order exclusive possession of the real estate to Plaintiff upon the expiration of the statutory ninety (90) day period of redemption and direct the clerk to issue a Writ of Possession at the request of Plaintiff;
- g. Find that by virtue of the Note and Mortgage, Defendants Kathleen M. Keefer, Edward Keefer and Stephen R. Chapman have been unjustly enriched at the Plaintiff's expense; and

h. Order such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted,

U.S. Bank National Association as Legal Title
Trustee for Truman 2016 SC6 Title Trust

By its Attorneys,
BENDETT & MCHUGH, P.C.

Dated: April 11, 2019

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